

AMENDED IN SENATE MAY 2, 2000
AMENDED IN SENATE APRIL 24, 2000

SENATE BILL

No. 1491

Introduced by Senator Leslie
(Coauthor: Senator Johnston)
(Coauthors: Assembly Members Bock, Cox, House,
Longville, Pescetti, and Zettel)

February 11, 2000

An act to amend Sections ~~7604 and 7678 of, and add Section 7604.5 to,~~ 1202, 7604, and 7678 of the Public Utilities Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1491, as amended, Leslie. Railroad crossings: automated warning devices.

Existing law requires that an audible warning device be sounded from a locomotive engine at least 1320 feet before the intersection of the railroad and a street, road, or highway with certain exceptions. Existing law imposes a civil fine on a railroad corporation that violates this provision and makes it a misdemeanor for a person in charge of a locomotive engine to fail to sound the warning. *Existing law also provides the Public Utilities Commission with exclusive power to regulate the location, maintenance, and operation of railroad and street railroad crossings.*

This bill would eliminate the requirement that the warning device on the locomotive engine be sounded when

approaching a railroad crossing that has a permanent audible warning device that automatically sounds as the locomotive engine approaches the railroad crossing. This bill would also ~~require the commission to develop and administer a pilot program to test audible warning devices in at least 3 communities interested in the devices. Specified deadlines would be required to be met and a report made to the Legislature not later than November 1, 2001~~ *authorize the commission to authorize and supervise the operation of pilot projects to evaluate proposed crossing warning devices or new technology. The bill would make related declarations and findings.*

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *Section 1202 of the Public Utilities Code*
2 *is amended to read:*

3 1202. The commission has the exclusive power:

4 (a) To determine and prescribe the manner, including
5 the particular point of crossing, and the terms of
6 installation, operation, maintenance, use, and protection
7 of each crossing of one railroad by another railroad or
8 street railroad, and of a street railroad by a railroad, and
9 of each crossing of a public or publicly used road or
10 highway by a railroad or street railroad, and of a street by
11 a railroad or ~~vice versa~~ *of a railroad by a street.*

12 (b) To alter, relocate, or abolish by physical closing any
13 ~~such crossing heretofore or hereafter established~~ *set forth*
14 *in subdivision (a).*

15 (c) To require, where in its judgment it would be
16 practicable, a separation of grades at any ~~such~~ crossing
17 ~~heretofore or hereafter~~ established and to prescribe the
18 terms upon which ~~such~~ *the* separation shall be made and
19 the proportions in which the expense of the construction,
20 alteration, relocation, or abolition of ~~such~~ crossings or the
21 separation of ~~such~~ grades shall be divided between the

1 railroad or street railroad corporations affected or
2 between ~~such~~ these corporations and the state, county,
3 city, or other political subdivision affected.

4 (d) (1) *To authorize and supervise the operation of*
5 *pilot projects to evaluate proposed crossing warning*
6 *devices or new technology at designated crossings, with*
7 *the consent of the local jurisdiction, the affected railroad,*
8 *and other interested parties, including, but not limited to,*
9 *represented railroad employees.*

10 (2) (A) *The Legislature finds and declares that for the*
11 *communities of the state that are traversed by railroads,*
12 *there is a growing need to mitigate train horn noise*
13 *without compromising the safety of the public.*
14 *Therefore, it is the intent of the Legislature that the*
15 *commission authorize pilot projects in at least the*
16 *communities of Roseville and Lathrop to test the utility*
17 *and safety of stationary, automated audible warning*
18 *devices as an alternative to trains having to sound their*
19 *horns as they approach highway-rail crossings.*

20 (B) *In light of the pending proposed ruling by the*
21 *Federal Railroad Administration on the use of locomotive*
22 *horns at all highway-rail crossings across the nation, it*
23 *would be in the best interest of the state for the*
24 *commission to expedite the pilot projects in order to*
25 *contribute data to the federal rulemaking process*
26 *regarding the possible inclusion of stationary, automated*
27 *warning devices as a safety measure option to the*
28 *proposed federal rule.*

29 SEC. 2. Section 7604 of the Public Utilities Code is
30 amended to read:

31 7604. (a) A bell, of at least 20 pounds weight or of
32 equivalent sound-producing capability, shall be placed on
33 each locomotive engine, and shall be rung at a distance
34 of at least 1,320 feet from the place where the railroad
35 crosses any street, road, or highway, and be kept ringing
36 until it has crossed the street, road, or highway; or a steam
37 whistle, air siren, or an air whistle shall be attached, and
38 be sounded at the like distance, and be kept sounding at
39 intervals until it has crossed the street, road, or highway,
40 except as follows:

1 (1) ~~Notwithstanding Section 7678, in~~ In a city, the
2 ringing of the bell or the sounding of the steam whistle,
3 air siren, or air whistle shall be at the discretion of the
4 operator of the locomotive engine.

5 (2) When a locomotive engine is engaged in a
6 switching operation or comes to a stop at any point within
7 a distance of 1,320 feet from the place at which the
8 railroad crosses any street, road, or highway, it shall not
9 be necessary that the bell be rung or the whistle, air siren,
10 or air whistle be sounded, until the time and from the
11 place that the locomotive begins an uninterrupted
12 movement to and across the place at which the railroad
13 crosses the street, road, or highway.

14 (3) ~~Notwithstanding Section 7678, the~~ (A) *The*
15 ringing of the bell or the sounding of the steam whistle,
16 air siren, or air whistle is not required when approaching
17 a railroad crossing that has a permanently installed
18 audible warning device ~~approved~~ *authorized* by the
19 commission that sounds automatically when an
20 approaching train is at least 1,320 feet from the place
21 where the railroad crosses any street, road, or highway,
22 and that keeps sounding until the ~~locomotive engine lead~~
23 *locomotive* has crossed the street, road, or highway. ~~The~~
24 ~~automatic warning device shall sound at the same or~~
25 ~~greater decibel level as that set forth in subdivision (a) for~~
26 ~~a warning device mounted on a locomotive engine.~~

27 (B) *The operator of the locomotive may ring the bell*
28 *or sound the steam whistle, air siren, or air whistle at*
29 *crossings equipped as set forth in subparagraph (A).*

30 (b) Any railroad corporation violating this section
31 shall be subject to a penalty of one hundred dollars (\$100)
32 for every violation. The penalty may be recovered in an
33 action prosecuted by the district attorney of the proper
34 county, for the use of the state. The corporation is also
35 liable for all damages sustained by any person, and caused
36 by its locomotives, train, or cars, when the provisions of
37 this section are not complied with.

38 ~~SEC. 2. Section 7604.5 is added to the Public Utilities~~
39 ~~Code, to read:~~

1 ~~7604.5. (a) The commission shall develop and~~
2 ~~administer a pilot program to test the use of audible~~
3 ~~warning devices where a railroad crosses a street, road, or~~
4 ~~highway in at least three communities interested in~~
5 ~~permanently installing these devices for noise mitigation~~
6 ~~purposes.~~

7 ~~(b) (1) The commission shall develop guidelines to~~
8 ~~assist potential applicants and the guidelines shall be~~
9 ~~available to potential applicants not later than three~~
10 ~~months after the act that adds this section becomes~~
11 ~~operative.~~

12 ~~(2) The commission shall take into consideration the~~
13 ~~public's safety when developing the guidelines for the~~
14 ~~program.~~

15 ~~(3) The commission shall select at least three sites for~~
16 ~~the installation of audible warning devices from the pool~~
17 ~~of qualified applicants not later than six months after the~~
18 ~~act that adds this section becomes operative. Selected~~
19 ~~applicants shall install the audible warning devices and~~
20 ~~complete the data collection requirements of the~~
21 ~~program not later than eight months after being selected~~
22 ~~by the commission.~~

23 ~~(c) The commission shall, after compiling and~~
24 ~~reviewing the data, report its findings to the Legislature~~
25 ~~not later than November 1, 2001. The data to be collected~~
26 ~~in the administration of this program shall include, but~~
27 ~~not be limited to, the calculations discussed in the~~
28 ~~Introduction to Appendices A and B to 49 C.F.R. Part 222~~
29 ~~in the Federal Railroad Administration's notice of~~
30 ~~proposed rulemaking on "Use of Locomotive Horns at~~
31 ~~Highway-Rail Grade Crossings," as published in Vol. 65,~~
32 ~~No. 9 of the Federal Register (Thursday, January 13,~~
33 ~~2000).~~

34 SEC. 3. Section 7678 of the Public Utilities Code is
35 amended to read:

36 7678. Except as provided in paragraphs (1) to (3),
37 inclusive, *of subdivision (a)* of Section 7604, every person
38 in charge of a locomotive engine who, before crossing any
39 traveled public way, omits to cause a bell to ring or steam
40 whistle, air siren, or air whistle to sound at the distance of

1 at least 1,320 feet from the crossing, and ~~up to it~~ *until the*
2 *lead locomotive has passed through the crossing*, is guilty
3 of a misdemeanor.

4 SEC. 4. This act is an urgency statute necessary for the
5 immediate preservation of the public peace, health, or
6 safety within the meaning of Article IV of the
7 Constitution and shall go into immediate effect. The facts
8 constituting the necessity are:

9 In order for the test of the pilot program for *stationary*,
10 *automated* audible warning devices ~~on locomotive~~
11 ~~engines at highway-rail crossings~~ and the feasibility of
12 that system to be assessed as soon as possible, it is
13 necessary that this act take effect immediately.

